

Congress of the United States

House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

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May 4, 2017

The Honorable Jefferson B. Sessions III
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. ZIP 20530

Dear Attorney General Sessions,

On April 27, 2017, Chairman Lamar Smith of the Committee on Science, Space, and Technology (Committee) wrote to you to refer Mr. Treve Suazo, CEO of Platte River Networks (PRN), for prosecution pursuant to 2 U.S.C. § 192, 18 U.S.C. § 1001, and 18 U.S.C. § 1505.¹ I am writing to you today to correct several factual and legal deficiencies contained in Chairman Smith's letter.

Questionable Legal Basis for the Committee's Investigation

Before delving into the serious legal and factual deficiencies in Chairman Smith's specific allegations, it is worth considering the shaky legal foundation of the Committee's investigation into PRN.

Congress's oversight and investigatory reach is broad, but not unlimited.² Courts have repeatedly noted that, "Congress may only investigate into those areas in which it may potentially legislate or appropriate."³ In his referral letter, Chairman Smith claims that the Committee has jurisdiction to conduct his inquiry into PRN based on Congress's delegation, pursuant to House Rule X, of legislative and oversight jurisdiction "over the National Institute of Standards and Technology (NIST), the agency charged with promulgating guidelines related to cybersecurity."⁴ The Chairman relies greatly upon his

¹ Letter from Hon. Lamar Smith, Chairman, H. Comm. On Science, Space, & Tech. to Hon. Jefferson B. Sessions III, Attorney General, (April 27, 2017) (Hereafter, "Letter").

² "The power of Congress to conduct investigations is inherent in the legislative process. That power is broad.... But, broad as is this power of inquiry, it is not unlimited. There is no general authority to expose the private affairs of individuals without justification in terms of the functions of the Congress." *Watkins v. United States*, 354 U.S. 178, 187 (1957).

³ *Barenblatt v. U.S.*, 360 U.S. 109, 111 (1959).

⁴ Letter at 2.

supposed compliance with the requirements laid out by the Supreme Court in *Wilkinson v. United States*⁵ in claiming that the Committee's subpoenas in this investigation were "valid exercises of the House's constitutional oversight authority." As Chairman Smith explains in his letter:

"Wilkinson requires that the Committee's investigation be authorized by Congress; that the Committee have a "valid legislative purpose" for conducting its investigation; and that the subpoena be pertinent to the subject matter authorized by Congress."⁶

Despite the Chairman's insistence otherwise, it is highly doubtful that the Committee's investigation of PRN satisfies any of the tests identified by the *Wilkinson* court.

PRN is a private company hired by former Secretary of State Hillary Clinton to manage her email server after she departed the State Department for private life. There is no indication that either PRN or former Secretary Clinton had any relationship with NIST, our Committee's supposed jurisdictional hook into this investigation. Chairman Smith claims that the Committee's secondary role in formulating parts of the Federal Information Security Management Act of 2002 (FISMA)⁷ relating to NIST provides the basis for our legislative jurisdiction over this investigation. The Chairman notes that under FISMA, "NIST is the federal agency responsible for updating and promulgating standards and requirements used to safeguard federal information systems."⁸ This is all well and good. However, since FISMA standards only apply to government systems, it is unclear how they would provide a jurisdictional hook to investigate the communications and documents of a private company managing the server of a private citizen. In some theoretical universe, the actual physical server managed by PRN could have been distantly relevant to the Committee's investigation if it was the same hardware used by Secretary Clinton while she served in her government capacity. However, it was widely known⁹ that this hardware was already in the possession of the Federal Bureau of Investigation (FBI). In any event, Chairman Smith never requested access to that one piece of evidence that could be even potentially relevant to FISMA.

I am not alone in my assessment of the Committee's lack of jurisdiction in this investigation. Shortly after Chairman Smith initiated his investigation of PRN in January of 2016, it was reported that House Majority Leader Kevin McCarthy indicated that the Chairman had overstepped the Committee's jurisdiction.¹⁰ The Committee apparently

⁵ *Wilkinson v. United States*, 365 U.S. 399 (1961).

⁶ Letter at 2, citing to *Wilkinson* at 408-209.

⁷ Federal Information Security Management Act of 2002, 116 Stat. 2259 (2002).

⁸ Letter at 3.

⁹ Tom Hamburger and Karen Tumulty, *Hillary Clinton's e-mail server turned over to FBI*, Washington Post, August 12, 2015, accessed here:

<https://www.washingtonpost.com/politics/clintons-e-mail-server-turned-over-to-fbi/2015/08/12>.

¹⁰ Daniel Newhauser and Ben Geman, *Republican Leaders Won't Back Smith's Probe of Clinton Emails*, National Journal, February 1, 2016, accessed here: <http://www.govexec.com/oversight/2016/02/republican-leaders-wont-back-smiths-probe-clinton-emails/125601/>;

ceased its investigation after these reports surfaced, only to suddenly restart the investigation in July of 2016, after the Department of Justice declined to bring charges against former Secretary Clinton. Perhaps not so coincidentally, in July of 2016, Hillary Clinton was officially nominated as the Democratic Party candidate for President of the United States.

This is not the only instance of significant figures questioning the jurisdiction of the Committee to investigate PRN. During a September 28, 2016, hearing of the House Judiciary Committee, of which Chairman Smith is a Member and the former Chairman, he asked the Director of the FBI James Comey about the Science Committee's September 9, 2016, request to the FBI for documents regarding Hillary Clinton's e-mails. Politely, FBI Director Comey responded that the Science Committee had no legitimate jurisdiction regarding the investigation of Hillary Clinton's e-mails, saying, "We're just not sure we see the jurisdictional issue the way you folks do."¹¹ In other words, a high level official in your own department determined that the Committee lacked jurisdiction to investigate this matter.

Contempt of Congress

In addition to the foundational questions I have regarding the Committee's jurisdiction to conduct this investigation, I also feel compelled to point out some of the serious legal and factual flaws contained in the Chairman's specific referrals for prosecution.

The first crime that Chairman Smith has referred PRN to you for prosecution is 2 U.S.C. § 192. This law is generally referred to as "statutory contempt of Congress." In his referral, Chairman Smith states that, "Mr. Suazo's failure to comply with valid congressional subpoenas, as described in the preceding paragraphs, are a violation of 2 U.S.C. § 192."¹² Chairman Smith correctly cited this section of the U.S. Code, which reads in whole:

"Every person who having been summoned as a witness by the authority of either House of Congress to give testimony or to produce papers upon any matter under inquiry before either House, or any joint committee established by a joint or concurrent resolution of the two Houses of Congress, or any committee of either House of Congress, willfully makes default, or who, having appeared, refuses to answer any question pertinent to the question under inquiry, shall be deemed guilty of a misdemeanor, punishable by a fine of not more than \$1,000 nor less

Also see, Cory Bennett, *GOP leader suggests panel overstepped with Clinton email probe*, The Hill, February 1, 2016, accessed here: <http://thehill.com/policy/cybersecurity/267803-mccarthy-house-panel-overstepped-with-clinton-email-probe>.

¹¹ *Oversight of the Federal Bureau of Investigation: Hearing Before the House Committee on Judiciary*, 114th Cong. (September 28, 2016). Excerpts of exchange between FBI Director James Comey and Science Committee Chairman Lamar Smith accessed here:

https://www.youtube.com/watch?v=qlWglYFp_G4&feature=youtu.be&t=3m37s

¹² Letter at 9.

than \$100 and imprisonment in a common jail for not less than one month nor more than twelve months.”¹³

In the course of his letter Chairman Smith seems to indicate that non-compliance with a Congressional subpoena by itself is a violation of this law. But of course, if this is statutory contempt of Congress, then an obvious prerequisite for prosecution under this statute must be Congress holding an individual in contempt. In fact, if Chairman Smith or his staff had bothered to literally turn the page of the U.S. Code, he would have found those statutory procedural requirements at 2 U.S.C. § 194, which reads in whole:

“Whenever a witness summoned as mentioned in section 192 of this title fails to appear to testify or fails to produce any books, papers, records, or documents, as required, or whenever any witness so summoned refuses to answer any question pertinent to the subject under inquiry before either House, or any joint committee established by a joint or concurrent resolution of the two Houses of Congress, or any committee or subcommittee of either House of Congress, and the fact of such failure or failures is reported to either House while Congress is in session or when Congress is not in session, a statement of fact constituting such failure is reported to and filed with the President of the Senate or the Speaker of the House, it shall be the duty of the said President of the Senate or Speaker of the House, as the case may be, to certify, and he shall so certify, the statement of facts aforesaid under the seal of the Senate or House, as the case may be, to the appropriate United States attorney, whose duty it shall be to bring the matter before the grand jury for its action.”¹⁴

At one point in time, Chairman Smith apparently understood the procedures of contempt of Congress. In October of 2016, Chairman Smith announced via press conference and press release his intention to seek to hold Mr. Suazo in contempt,¹⁵ but never followed through on that announcement with any actual actions. Neither the Committee nor the House of Representatives as a whole took any actions to hold Treve Suazo in contempt of Congress for alleged non-compliance with the Committee’s subpoenas in the 114th Congress. At the conclusion of that Congress, the subpoenas ceased to be in effect. Chairman Smith has made no effort so far this Congress to reissue subpoenas to either PRN or Treve Suazo. Aside from issuing press releases, the Chair has made absolutely no effort to comply with the requirements of House procedure and 2 U.S.C. § 194.

The antecedents of these two code sections were enacted together, in only slightly different form, in 1857.¹⁶ This law has thus existed, relatively unchanged, for over 150 years. The basic procedures for utilizing this statute to enforce a contempt of Congress citation can be found in § 299 of Jefferson’s Manual,¹⁷ Chapter 17 of the House Practice

¹³ 2 U.S.C. § 192.

¹⁴ 2 U.S.C. § 194.

¹⁵ *Smith Seeks Vote to Hold Platte River Networks in Contempt*, Press Release by H. Comm. On Science, Space, & Tech. (October 20, 2016).

¹⁶ An Act more effectually to enforce the Attendance of Witnesses on the Summons of either House of Congress, and to compel them to discover Testimony, 11 Stat 155 (1857).

¹⁷ Thomas J. Wickham, *House Rules and Manual*, 143 (2015).

Manual,¹⁸ various Congressional Research Service documents,¹⁹ and with a simple internet search.²⁰ As I noted above, Chairman Smith was previously the chair of the House Judiciary Committee and is, himself, a licensed attorney. It is incredible that he has asserted in his referral letter that 2 U.S.C. § 192 could be used to prosecute an individual who had not previously been held in contempt of Congress. Such a grossly incorrect statement made by someone who ought to know better could be construed as a deliberate misrepresentation, and consequently, a violation of 18 U.S.C. § 1001. Of course, I don't believe Chairman Smith is guilty of intentional misrepresentations to the Justice Department any more than I believe that Mr. Suazo is guilty of intentional misrepresentations to the Committee.

False Statements to Congress

The second charge that Chairman Smith has made against Mr. Suazo is for allegedly making false statements to Congress in violation of 18 U.S.C. § 1001. The Chairman's rationale for his allegation is based on an extremely aggressive reading of statements made by PRN, through their attorney, in response to the Committee's subpoena. As I noted above, if one were to apply the same aggressive standard to the Chairman's own egregiously inaccurate claims regarding the suitability of prosecuting Mr. Suazo under 2 U.S.C. § 192, then one could reasonably conclude that the Chairman himself has violated 18 U.S.C. § 1001 by making false statements to the U.S. Attorney General. That absurd result should demonstrate just how far out of bounds the Chairman's claims against Mr. Suazo really are in this case.

The Chairman's false statements allegations involve PRN's responses made to various Committee document demands, although they center around PRN's response to the Committee's first subpoena issued in August of 2016. I think it is important to specifically lay out the deficiencies of the Chairman's various document requests as they relate to PRN, which will demonstrate that the allegedly false statements made by PRN are, in fact, simply a result of the Chairman's inability or unwillingness to properly craft his demands with any specificity.

On January 14, 2016, the Chairman first wrote to PRN CEO Treve Suazo demanding various documents and communications related to "Secretary Clinton's server."²¹ PRN responded on February 3, 2016, through their attorney, that they had no information

¹⁸ Wm. Holmes Brown, Charles W. Johnson, and John V. Sullivan, *House Practice: A Guide to the Rules, Precedents, and Procedures of the House*, 450 (2011).

¹⁹ For instance, Todd Garvey and Alissa M. Dolan, *Congress's Contempt Power and the Enforcement of Congressional Subpoenas: Law, History, Practice, and Procedure*, Congressional Research Service, 18-23 (2014).

²⁰ For instance, "Contempt of Congress," *Wikipedia: The Free Encyclopedia*, found at: https://en.wikipedia.org/wiki/Contempt_of_Congress.

²¹ Letter from Hon. Lamar Smith, Chairman, H. Comm. On Science, Space, & Tech. to Mr. Treve Suazo, CEO, Platte River Networks (January 14, 2016).

relating to “Secretary Clinton’s private server,” and further noted that, “*Platte River Networks* only began hosting the Secretary’s email after she had left office.”²²

The Chairman next wrote to PRN, in conjunction with Senator Ron Johnson, on July 12, 2016, asking for transcribed interviews with PRN employees and further reiterating “our prior requests for information from Platte River Networks.”²³ If the Chairman was disappointed with PRN’s prior response, this was an obvious opportunity for him to clarify that he was interested in documents and communications from after Secretary Clinton left public life, and the nature of those documents he actually desired. He chose not to do so. Predictably, PRN, through their attorney, responded on July 21, 2016 that:

“PRN was only involved with presidential candidate Clinton after she had left her position as Secretary of State, which is beyond the scope of your inquiry.”²⁴

For that reason, and others involving hardship, PRN declined to produce any documents.

On August 22, 2016, Chairman Smith unilaterally issued a subpoena to Treve Suazo. That subpoena’s schedule reads, in full:

“In accordance with the attached schedule instructions, you, Treve Suazo, are required to produce the things described below:

1. All documents and communications referring or relating to private servers or networks used by Secretary Clinton for official purposes.
2. All documents and communications referring or relating to the methods used to store and maintain data on private servers or networks used by Secretary Clinton for official purposes.
3. All documents and communications referring or relating to any data security breaches to private servers or networks used by Secretary Clinton for official purposes.
4. All documents and communications referring or relating to the National Institute of Standards and Technology’s Framework for Improving Critical Infrastructure Cybersecurity or the Federal Information Security Management Act (“FISMA”).”^{25 26}

²² Letter from Kenneth F. Eichner, Counsel for Platte River Networks to Mr. Drew Colliatie and Ms. Caroline Ingram, Counsels, H. Comm. On Science, Space, & Tech. (February 3, 2016).

²³ Letter from Hon. Lamar Smith, Chairman, H. Comm. On Science, Space, & Tech. and Hon. Ron Johnson, Chairman, S. Comm. On Homeland Security and Governmental Affairs to Mr. Treve Suazo, CEO, Platte River Networks (July 12, 2016).

²⁴ Letter from Kenneth F. Eichner, Counsel for Platte River Networks to Hon. Lamar Smith, Chairman, H. Comm. On Science, Space, & Tech. and Hon. Ron Johnson, Chairman, S. Comm. On Homeland Security and Governmental Affairs (July 21, 2016).

²⁵ Subpoena from Hon. Lamar Smith, Chairman, H. Comm. On Science, Space, & Tech. to Mr. Treve Suazo, CEO, Platte River Networks (August 22, 2016).

²⁶ As an aside, the National Institute of Standards and Technology’s Framework for Improving Critical Infrastructure Cybersecurity could not, alone, be the basis for compulsory action by our Committee. That Framework is entirely voluntary, and in fact, NIST does not have legal authority to issue mandatory regulations to the private sector. Nor does the Committee possess the authority to legislate private sector

Yet again, the Chairman persisted in demanding documents and communications relating to Secretary Clinton's server during her tenure as Secretary of State despite the fact that PRN was not employed during that time period. PRN responded that:

"PRN had no relationship with former Secretary Clinton during her time in office. Therefore, PRN is unable to produce any materials relating thereto."²⁷

It appears that this statement is the crux of the Chairman's referral for the crime of false statements to Congress. Based on the context provided above, I think it is clear that PRN's response was entirely within their rights. The failure here is not of PRN to tell the truth, but rather, of Chairman Smith to properly articulate a document request relevant to PRN.

Chairman Smith provides as proof that PRN's September 8, 2016, response was false three exhibits attached in the appendix to his referral.²⁸ Two of these exhibits are identical (15 and 16), so in actuality, the Chairman provided two exhibits to bolster his claim. Exhibit 14 is an email from a PRN employee to an employee of a separate IT company, Datto, discussing work on former Secretary Clinton's behalf. Exhibit 15 (and 16) is another email between employees of these two companies containing similar content. Both exhibits are dated August 2015, two and a half years after Secretary Clinton left public service in February of 2013. Neither exhibit contains any discussion of work done for Secretary Clinton in her official capacity as Secretary of State. In short, these exhibits are proof of nothing other than the fact that PRN provided IT work for former Secretary Clinton after her time in federal service, a fact which was readily acknowledged by PRN and never in dispute.

The final point I will make about the Chairman's spurious allegation of false statements by Mr. Suazo is that his own actions constitute a tacit acknowledgement of the inadequacy of his document demands. On September 15, 2016, the Chairman issued a second subpoena to PRN with a completely different schedule which finally asked for documents potentially in the possession of PRN.²⁹ The schedule reads in full:

"In accordance with the attached schedule instructions, you, Treve Suazo, are required to produce the things described below:

cybersecurity regulations. It is entirely outside of the Committee's jurisdiction. To allow the Committee to issue subpoenas to the general public to determine if citizens have utilized or complied with voluntary advice provided by Federal agencies would make a mockery of the limitations the courts have placed on Congressional oversight power.

²⁷ Letter from Kenneth F. Eichner, Counsel for Platte River Networks to Hon. Lamar Smith, Chairman, H. Comm. On Science, Space, & Tech. (September 8, 2016).

²⁸ Exhibits 14, 15, and 16.

²⁹ Subpoena from Hon. Lamar Smith, Chairman, H. Comm. On Science, Space, & Tech. to Mr. Treve Suazo, CEO, Platte River Networks (September 15, 2016).

1. All documents and communications between and among Clinton Executive Services Corporation employees or any affiliated entities referring or relating to servers or networks used by former Secretary Clinton and/or Clinton Executive Services Corporation employees.
2. All documents and communications between and among Platte River Networks employees and Clinton Executive Services Corporation employees or affiliated entities.
3. All documents and communications between and among Platte River Networks employees and Datto, Inc. employees referring or relating to services performed for former Secretary Clinton and/or the Clinton Executive Services Corporation.
4. All documents and communications between and among Platte River Networks employees and SECNAP Network Security Corporation employees referring or relating to services performed for former Secretary Clinton and/or the Clinton Executive Services Corporation.
5. All documents and communications produced to the FBI by Platte River Networks referring or relating to the FBI's investigation of former Secretary Clinton.
6. All documents and communications referring or relating to any attempted or actual security breaches or events, including but not limited to any potentially malicious or unauthorized scans and probes detected, on former Secretary Clinton's or the Clinton Executive Services Corporation's servers or networks."³⁰

It is remarkable how different this schedule appears when compared to the Chairman's previous letters and subpoenas. It is unclear why it took the Chairman nine months to properly articulate his document demands. In response to this schedule, PRN declined to respond based on their 4th and 5th Amendment rights.³¹ If the Chair was unsatisfied with PRN's assertion of Constitutional privilege, he had the right to bring the matter before the Committee to seek a vote to overrule that privilege, and in the absence of a response by PRN, to seek to hold Mr. Suazo in contempt of Congress for his noncompliance. The Chairman took none of those steps available to him. He now seeks as a remedy to his own inadequate actions and inarticulate demands to have the Justice Department prosecute Mr. Suazo on trumped up charges of lying to Congress.

Obstruction of Justice

The Chairman's final referral of Mr. Suazo is for prosecution of obstruction of justice under 18 U.S.C. §1505. The Chairman's legal theory of obstruction is described as follows:

"Mr. Suazo, through his attorney, refused to produce documents, made misrepresentations about having custody of responsive documents, and refused to

³⁰ Id.

³¹ Letter from Kenneth F. Eichner, Counsel for Platte River Networks to Hon. Lamar Smith, Chairman, H. Comm. On Science, Space, & Tech. (September 23, 2016).

allow PRN employees to be interviewed by the Committee. Moreover, Mr. Suazo's conduct through his counsel frustrated the Committee's investigation as evidenced by counsel's refusal to speak with Committee staff over the phone, refusal to accept electronic service, and threats of baseless ethics complaints. These actions, coupled with the clear violations of 2 U.S.C. § 192 and 18 U.S.C. § 1001, amount to obstruction."³²

Yet again, Chairman Smith's legal and factual analysis is demonstrably incorrect. I'll address each of the Chairman's assertions as they relate (or not) to 18 U.S.C. §1505, which reads in relevant part:

"Whoever corruptly, or by threats of force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, or the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress-
Shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both."³³

As the statute makes clear, obstruction of justice is more than simply noncompliance with a subpoena of Congress. To be guilty of obstruction, one must also take corrupt or threatening acts in furtherance of this noncompliance. The only cognizable claim the Chairman makes in this regard is that Mr. Suazo made misrepresentations to the Committee (in violation of 18 U.S.C. § 1001). However, as I have noted, the Chairman's claims in this regard are without merit. The Chairman also claims that Mr. Suazo's alleged violation of 2 U.S.C. § 192 qualifies as obstruction. However, as I noted above, Mr. Suazo cannot be guilty of a violation of 2 U.S.C. § 192 by virtue of the fact that he has not been held in contempt of Congress.

There remains no element of corruption or threatening activity in Chairman Smith's allegations which would satisfy the requirements of 18 U.S.C. §1505. The Chairman's complaints that Mr. Suazo's attorney demanded communications be reduced to writing and refused electronic service of his client are meaningless. Neither of these acts is remotely illegal or even unethical. Chairman Smith makes no actual accusation that Mr. Suazo sought to evade service, but rather, complains that his attorney refused to make service upon his client convenient for the Chairman.

Finally, Chairman Smith claims that Mr. Suazo's attorney made "threats of baseless ethics complaints" to the Chair and his staff. This is also false. In his September 23, 2016, reply to the Committee's second subpoena, Mr. Suazo's attorney informed the Chairman and his staff that "the continued congressional demands for the personal appearance of

³² Letter at 11.

³³ 18 U.S.C. §1505.

PRN personnel, despite having full knowledge that they will assert their Fifth Amendment rights, arguably constitutes harassment under ethical rules.” This is not a threat, it is simply a correct application of the DC Rules of Professional Conduct.³⁴ Moreover, Mr. Suazo’s attorney’s concern was well founded. On September 13, 2016, House Oversight and Government Reform Committee Chair Jason Chaffetz compelled the attendance of PRN employees at a public hearing in spite of the fact that he had been informed they would exercise their Fifth Amendment rights to refuse to answer questions.³⁵ Chairman Smith attended this hearing on special dispensation from Chairman Chaffetz. Moreover, Chairman Smith himself has also compelled the attendance of witnesses in public hearings simply to force the witnesses to repeatedly “plead the Fifth” in public.³⁶ Based on Chairman Smith’s prior actions, Mr. Suazo’s attorney was justified in citing the ethical rules of the DC Bar.

There are numerous other factual inaccuracies contained in Chairman Smith’s letter, but I think the items already cited are sufficient to demonstrate the lack of a proper basis for a referral for prosecution of Mr. Suazo.

The crimes that Chairman Smith has referred Mr. Suazo for prosecution all carry serious consequences. Cumulatively, they would allow for potential imprisonment of up to 11 years. It is extremely unfortunate that the Chairman of my once great Committee has so cavalierly referred these charges to the Justice Department for prosecution. In the case of his referral under 2 U.S.C. § 192, the Chairman doesn’t even seem to understand the basic procedural requirements of a “contempt of Congress” prosecution. If you are going to attempt to take a person’s freedom away for a good portion of their life, then the least you can do is read the law you are accusing them of breaking.

Attorney General Sessions, you have any number of very serious law enforcement and national security items on your plate already. I am sorry that Chairman Smith has needlessly added this matter to your agenda. I hope that you’ll find my observations helpful in quickly disposing of this matter so you can get back to your job of protecting the American people.

³⁴ D.C. Legal Ethics Opinion 31 (1977) stated that it was a violation of an attorney’s ethical duty to force a witness to appear before Congress when the witness had indicated they would invoke their Fifth Amendment right against self-incrimination and “the sole effect of the summons will be to pillory the witness.” D.C. Legal Ethics Opinion 358 (2011) affirmed this ruling and found that the ruling was applicable to the D.C. Rules of Professional Conduct Rules 4.4(a) and 8.4(d).

³⁵ *Examining Preservation of State Department Records: Hearing before the House Committee on Oversight and Government Reform*, 114th Cong. (September 13, 2016).

³⁶ *Investigating Contract Misconduct at the National Weather Service: Hearing before the House Committee on Science, Space, and Technology*, 114th Cong. (July 15, 2015).

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Eddie Bernice Johnson". The signature is written in a cursive, flowing style.

EDDIE BERNICE JOHNSON

Ranking Member

Committee on Science, Space, and Technology

cc: The Honorable Lamar Smith, Chairman, House Committee on Science, Space,
and Technology